

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

GWENDOLYN L. BOHANNON,

PLAINTIFF,

v.

Case No. 5-07-CV-00123 JMM

JOHNSON FOOD EQUIPMENT, INC.

DEFENDANT.

**PLAINTIFF'S PRETRIAL DISCLOSURE SHEET
SUBMITTED PURSUANT TO FED.R.CIV.P. 26 (a) (3)**

(1) The identity of the party submitting information:

A. Gwendolyn L. Bohannon, plaintiff

(2) The names, address, and telephone numbers of all counsel for the party:

A. Richard J. Zalasky
Schlichter, Bogard & Denton
100 South 4th Street, Suite 900
St. Louis, MO 63102
(314) 621-6115

B. Edward T. Oglesby
Oglesby Law Firm, P.A.
100 Morgan Keegan Ste. 110
Little Rock, AR 72202
(501) 664-1000

(3) A brief summary of claims and relief sought:

Plaintiff is asserting strict product liability and negligence claims against the defendant related to severe right hand injuries suffered on July 28, 2004 while employed by Tyson Foods in Pine Bluff, Arkansas as a sanitation worker. She is seeking compensatory damages for past and future wage, fringe benefit, and household services losses, the costs of future counseling and prosthetics repair and replacement, and non-economic damages for pain and suffering, emotional distress, disability and disfigurement. Plaintiff also seeks punitive damages and recovery of her costs.

(4) Prospects for settlement:

Plaintiff has engaged in settlement discussions with defendant's new attorneys in good faith, notwithstanding the bald accusation to the contrary, contained in defendant's Status Report

(Doc. 228). Plaintiff simply does not agree with the defendant's valuation of the case, which the new attorneys reached admittedly before completing their review of the file. The plaintiff remains willing to consider a more informed settlement evaluation by the defendant.

(5) The basis for jurisdiction and objections to jurisdiction:

This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is diversity of citizenship between the plaintiff and the defendant and the amount in controversy exceeds \$75,000. The defendant has not objected to jurisdiction.

(6) A list of pending motions:

No pending motions at this time.

(7) A concise summary of the facts:

Plaintiff Gwendolyn Bohannon, a sanitation worker for Tyson Foods, was severely injured on July 28, 2004 when her right hand was pulled into a Neckbreaker Klean-Vac machine ("Neckbreaker") manufactured and sold by defendant Johnson Food Equipment to Tyson in 1995. The plaintiff was cleaning the machine as she had been instructed by her employer. During the initial spray down phase of the cleaning process she noticed a piece of chicken skin on a non-moving part of the machine that would not dislodge with regular spray. She reached to pick off the skin and her smock got caught in the unguarded rotating barrel of the machine. The incident degloved most of her right hand. After multiple painful surgeries, she has been left with one digit and permanent and unsightly scars. She has also suffered severe psychological damage as a result of this incident.

In addition to non-economic damages sought for pain, suffering, disability and disfigurement, the plaintiff is claiming actual damages for past and future earnings, fringe benefit, and household services losses, and future counseling and prosthetics costs.

The Neckbreaker was not equipped with any guards for the rotating barrel, reasonable and adequate warnings and instructions with respect to the conditions and methods of its safe use, electrical interlocks, or any devices to shut the machine down in the event of an emergency at the time it was supplied to Tyson and at the time of this incident which form the basis for the plaintiff's strict liability and negligence claims.

(8) All proposed stipulations:

A. Defendant Johnson Food Equipment manufactured or assembled and placed the Neckbreaker involved in this incident in the stream of commerce in 1995.

B. Authenticity/Admissibility of medical records pertaining to care and treatment received by plaintiff after this incident without the need for foundation testimony at trial. Specific portions of these records would still be subject to objection on other grounds.

C. Authenticity of documents and photos produced by the parties during discovery.

(9) The issues of fact expected to be contested:

A. Whether the Neckbreaker was in a defective condition which rendered it unreasonably dangerous when supplied?

B. If so, whether the defective condition was a proximate cause of plaintiff's damages?

C. Whether Johnson Food Equipment gave a reasonable and adequate warning of dangers reasonably foreseeable in its use?

D. Whether Johnson Food Equipment gave reasonable and adequate instructions with respect to the conditions and methods of its safe use?

E. Whether Johnson Food Equipment used ordinary care in its design and in its assembly in order to protect the plaintiff from an unreasonable risk of harm?

F. Whether the plaintiff was using the machine for a purpose which should have reasonably been expected by Johnson Food Equipment?

G. The nature and extent of the plaintiff's injuries, disability and damages.

H. Whether defendant Johnson Food Equipment acted in reckless disregard for the safety of the plaintiff in the design and marketing of the Neckbreaker supplied to Tyson?

(10) The issues of law expected to be contested:

Based on this Court's Order filed July 6, 2009 (Doc. 199), rulings on all issues of law raised in the first trial remain in effect.

(11) A list and brief description of exhibits, documents, charts, graph models, schematic diagrams, summaries, and similar objects which may be used in opening statements, closing argument, or any other part of the trial, whether or not they will be offered in evidence. Separately designate those documents and exhibits which the party expects to offer and those which the party may offer.

A. Exhibits plaintiff expects to offer

1. Life Table
2. Plaintiff wage/earnings records
3. Summary of economic damages claimed
4. Photos of right hand injuries

5. CD showing operation of Neckbreaker
6. Photos of Neckbreaker taken after incident
7. New generation Neckbreaker marketing sheets
8. PMJ marketing sheet for similar machine
9. Safety door assembly diagram
10. Neckbreaker Installation, Operation and Maintenance manuals
11. Baader Johnson service reports produced in discovery
12. Baader Johnson trip reports produced in discovery
13. Baader installation reports/diagram re: Pine Bluff installation
14. Vann Willis 8/20/05 correspondence re: machine safety upgrade
15. Van Willis 9/20/05 correspondence to John Manning
16. Any and all medical records related to plaintiff's injuries
17. CV of Dr. Bindra
19. Medical illustrations depicting injuries and medical treatment
20. Ronnie Watkins report of injury and statements
21. ASME/ANSI safety standards for machine and conveyor systems
22. CV of Dr. Flanigan
23. Exemplar guard
24. CV of Robert Marsh
25. CV of Bessie Lancelin
26. CV of Dr. Ronald Wauters
27. Report of Jackie Fancher
28. Ronnie Watkins expert report
29. Lancelin statement of future counseling costs
30. Photos of new generation Neckbreaker at Tyson
31. Drawings of Neckbreaker machinery and parts lists

B. Exhibits plaintiff may offer

1. Documents/exhibits identified in Tyson 30(b) (6) depositions
2. All exhibits identified during depositions taken in case to date
3. All documents produced by all parties in discovery
4. Any interrogatory answers of defendants
5. OSHA standards
6. Documents/exhibits identified in defendants' 30(b) (6) depositions
7. Documents/exhibits from Frank Gomer's file produced in discovery
8. Tyson line layout drawings
9. Supervisor's Accident/Incident Investigation report 8/13/04
10. Photos of Neckbreaker from inspection
11. Any exhibits identified by defendants in their disclosure or prior to trial

See also plaintiff's exhibit list from the first trial (Doc. 174-2).

- (12) The names, addresses and telephone number of witnesses for the party. Separately identify witnesses whom the party expects to present to those whom

the party may call. Designate witnesses whose testimony is expected to be present via deposition and, if not taken stenographically, a transcript of the pertinent portion of the deposition testimony.

A. Witnesses plaintiff will call:

1. Gwendolyn Bohannon
508 E. 14th Street
Pine Bluff, Ark 71601
2. Dr. Randipsingh Bindra (by deposition)
Loyola University Medical Center
2160 First Avenue
Maywood, IL 60153
708-216-5825
3. Dr. Ronald Wauters
Southeast Arkansas Behavioral Healthcare System
P.O. Box 1019
Pine Bluff, AR 71613
870-534-1834
4. Jackie Fancher (by deposition)
Life-Like Laboratory Prosthetics
2718 Hollandale Lane, #400
Farmers Branch, TX 75234
972-620-0203
5. Bessie Lancelin
Southeast Arkansas Behavioral Healthcare System
2500 Rike Drive
Pine Bluff, AR 71613
870-534-1834
6. Robert Marsh
Marsh Economic Consultation
6 Levant Drive
Little Rock, AR 72212
501-821-6677
7. Dr. Virgil Flanigan
Missouri University of Science & Technology Center for
Environmental Science & Technology
224 ERL Building, 1870 Miner Circle
1300 bishop Avenue
Rolla, MO 65409

573-341-6606

B. Witnesses plaintiff may call:

1. Claresta Jones
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
2. Sharon Dismuke
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
3. Vera Taylor
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
4. Devin Duncan
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
5. Jan Fitzpatrick
5505 Jefferson Parkway
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6. David Rook
5505 Jefferson Parkway
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7. Todd Callahan
5505 Jefferson Parkway
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870-247-9127
8. Hal Patterson
5505 Jefferson Parkway
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870-247-9127
9. Lenitta Williams
5505 Jefferson Parkway

Pine Bluff, AR 71602
870-247-9127

10. Alseera Hayes
Pine Bluff, AR
501-541-8847
11. Ronnie Watkins
2270 Glasgow Road
Burkesville, KY 42717
270-864-4353
12. Naomi Reed
(Address currently unknown)
13. J. Keeler
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
14. Fred Nichols
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
15. David Embrey
Tyson Foods, Inc.
Springdale Complex
Springdale, AR 72764
479-750-5316
16. Bobby McMurty
5505 Jefferson Parkway
Pine Bluff, AR 71602
870-247-9127
17. Bennett Vann Willis
5544 Northwest 80th Terrace
Kansas City, Missouri 64151
18. Mitchell Scott Stockton
1336 New Hampshire
Lawrence, Kansas
19. John Manning
5505 Jefferson Parkway

Pine Bluff, AR 71602
870-247-9127

20. Any witness identified by the defendants in their disclosure or prior to trial.
- C. Plaintiff's deposition designations – See separately filed pleading.
- (13) The current status of discovery, a precise statement of the remaining discovery and an estimate of the time required to complete discovery.
- A. Discovery has been completed.
- (14) An estimate of the length of trial and suggestions for expediting disposition of the action.
- A. Plaintiff anticipates that the trial will require one week.

/s/ Richard J. Zalasky
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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

On January 29, 2010 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which shall send notification of such filing to the following:

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/s/ Richard J. Zalasky